

COMMONWEALTH OF VIRGINIA



RICHMOND CITY CIRCUIT COURT
Civil Division
400 NORTH 9TH STREET
RICHMOND VA 23219

Summons

To: W T V R LLC
SERVE: CORPORATION SERVICE
COMPANY, REGISTERED AGENT
100 SHOCKOE SLIP, SECOND FLOOR
RICHMOND VA 23219

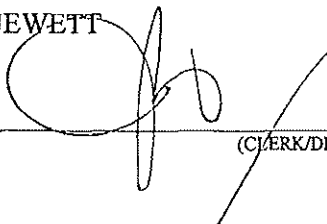
Case No. 760CL19001987-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Thursday, September 12, 2019

Clerk of Court: EDWARD F JEWETT

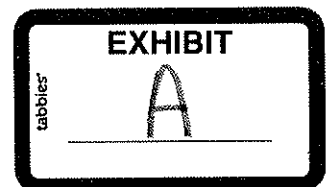
by 
(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name:

BISS, STEVEN S
300 WEST MAIN STREET, STE. 102
CHARLOTTESVILLE VA 22903
804.501.8272



VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND
John Marshall Courts Building

JOSEPH D. MORRISSEY)

Plaintiffs,)

v.)

Case No. _____

WTVR, LLC d/b/a CBS 6,)

**TRIAL BY JURY
IS DEMANDED**

MARK HOLMBERG)

-and-)

JOHN DOES 1 – 10)

[WTVR Editors and Publishers])

Defendants.)

COMPLAINT

Plaintiff, Joseph D. Morrissey (“Joe”), files the following Complaint against defendants, WTVR, LLC d/b/a CBS 6 (“WTVR”), Mark Holmberg (“Holmberg”), and John Does 1 – 10 (WTVR Editors and Publishers), jointly and severally.

In this action, Plaintiff seeks (a) compensatory and punitive damages in the sum of **\$1,350,000.00**, (b) prejudgment interest on the principal sum awarded by the Jury at the rate of six percent (6%) per year from September 2, 2016 until the date Judgment is entered pursuant to § 8.01-382 of the Virginia Code (1950), as amended (the “Code”), and (c) costs incurred – arising out of the defendants’ defamation *per se* and insulting words.

I. The Parties

1. Joe Morrissey is a well-known criminal defense attorney, well-respected by clients and constituents in the City of Richmond for his zealous representation and dogged protection of the rights and liberties of those who cannot fight back. Joe is a loving husband and father. [See, e.g., <https://www.facebook.com/joemorrisseyatty/>]. He is former Richmond Commonwealth's Attorney, a former Member of the Virginia House of Delegates (2008-2015), and former candidate for Mayor of the City of Richmond, Virginia.

2. Defendant, WTVR, is a limited liability company organized and existing under the laws of the State of Delaware. WTVR is owned by Tribune Broadcasting Company, LLC ("TBC"), a subsidiary of the Tribune Media Company, a Delaware corporation (NYSE:TRCO). WTVR's principal place of business and registered agent are located in the City of Richmond, Virginia. WTVR operates the metro Richmond, Virginia CBS television affiliate, CBS 6, which broadcasts from its studio at 3301 West Broad Street, Richmond, Virginia. Using its 1,049-foot-tall tower in Richmond, WTVR reaches more viewers than any other television station in Central Virginia, spanning a region that reaches Fredericksburg to the North, westward beyond Charlottesville, east into Tidewater and south into North Carolina. Locally, WTVR's television viewing area encompasses at least the following localities: City of Richmond, City of Petersburg, City of Hopewell, Caroline County, Chesterfield County, Dinwiddie County, Goochland County, Hanover County, Henrico County, New Kent County, Powhatan County, and Spotsylvania County. [See, e.g., <https://wtvr.com/contact/station-history/>]. WTVR claims it is Central Virginia's "most watched" news station. Indeed, between 2016 and 2018,

WTVR achieved some of the highest ratings (Nielsen) in total viewership, including several no. 1 rankings. [<https://wtvr.com/2017/12/19/wtvr-cbs-6-is-1-morning-to-night-for-first-time-in-30-years-1/>]. In addition to its broadcast audience of millions, WTVR republishes its news programs to its online audience of subscribers and viewers via its website, <https://wtvr.com/>, and via Facebook and twitter. In 2016, WTVR took in over \$25,000,000.00 in annual revenue from advertising and other sources connected to its publication of news and commentary. [<https://richmondbizsense.com/2016/12/20/cbs-6-unseats-nbc-12-in-morning-ratings/>].

3. Defendant, Holmberg, is or was a reporter for WTVR. Upon information and belief, Holmberg lives in Richmond, Virginia.

4. At all times relevant to this action, Holmberg acted as an agent and employee of WTVR within the scope of his employment and with the actual and apparent authority of WTVR. [See <https://wtvr.com/author/mark-holmberg/>].

5. Defendants, John Does 1 through 10, are as yet unidentified news producers, editors, managers and others who, together with Holmberg, were responsible for the spliced on air “interview” and the online publication of defamatory statements at issue in this action. Upon information and belief, all the John Doe Defendants are citizens of Virginia.

II. Jurisdiction and Venue

6. The Circuit Court for the City of Richmond has subject matter jurisdiction pursuant to § 17.1-513 of the Virginia Code (1950), as amended.

7. The Defendants are all subject to personal jurisdiction in Virginia pursuant to Virginia’s long-arm statute, § 8.01-328.1(A)(1) and (A)(3) and § 8.01-328.1(B) of the

Code, as well as the Due Process Clause of the United States Constitution. The Defendants are subject to both general and specific personal jurisdiction. They engage in continuous and systematic business in Virginia. They have minimum contacts with Virginia such that the exercise of personal jurisdiction over them comports with traditional notions of fair play and substantial justice and is consistent with the Due Process Clause of the United States Constitution.

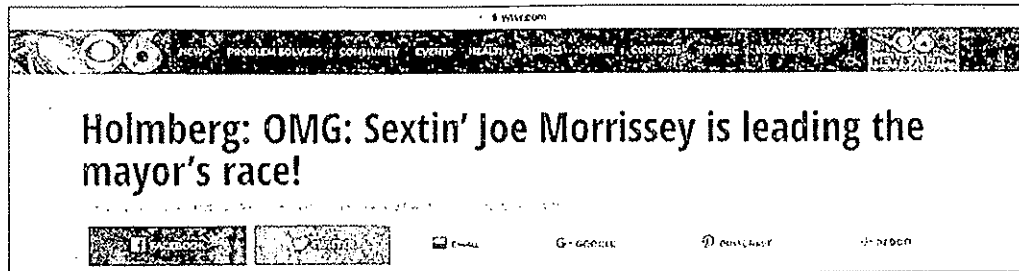
8. Venue is proper in the Circuit Court for the City of Richmond pursuant to § 8.01-262(1), (2), (3) and (4) of the Code. Numerous fact witnesses and substantial evidence relevant to the claims stated in this action are located in Richmond. The causes of action arose, in part, in Richmond, where the Defendants published false and defamatory statements and insulting words that caused Joe presumed and actual damages.

III. Statement of Material Facts

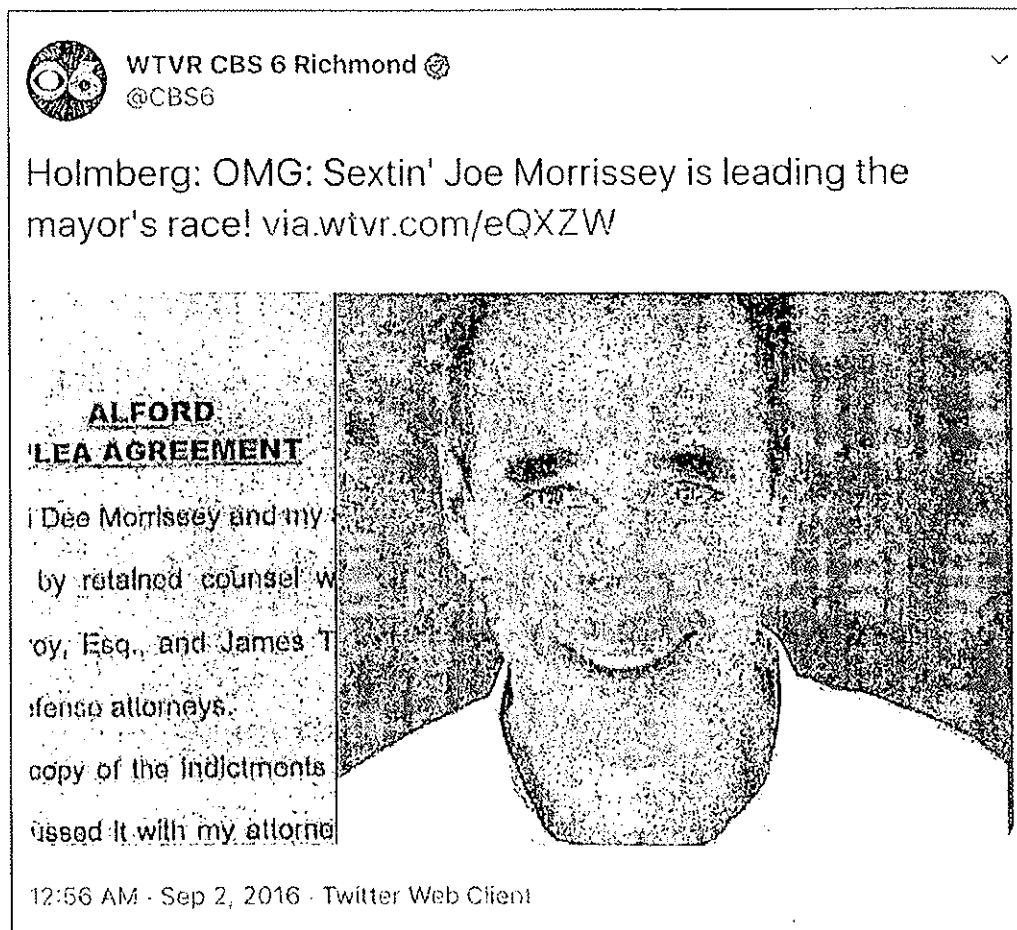
9. On or about September 2, 2016, WTVR aired an "interview" with Joe that WTVR titled, "RICHMOND'S MAYOR MORRISSEY?":



The "interview" was republished by WTVR online in an article with the headline:



<https://wtvr.com/2016/09/02/holmberg-omg-sextin-joe-morrissey-is-leading-the-mayors-race/>]. The online article was republished to WTVR's 400,000+ followers on Facebook <https://www.facebook.com/CBS6News/> and WTVR's 100,000+ followers on Twitter:



[<https://twitter.com/CBS6/status/771572564896325632>].

10. The sole, Machiavellian purposes of the on air “interview” were to impute to Joe unfitness and inability to serve as the Mayor of Richmond, Virginia, and to scuttle or otherwise destroy Joe’s Mayoral campaign.

11. A transcript of the “interview” is attached as Exhibit “A”.

12. The on air “interview” falsely portrayed and depicted Joe as a stupid liar, who was a sex crazed maniac. During the “interview”, Holmberg falsely stated, “During the past couple of years, Richmond has made national news and international news as a cool place to live, to visit, to play and party. Now we’re making national news because of *this fool*?” Ex. A, p. 2:13-14 (emphasis in original video). A “fool” is someone who is lacking in judgment or prudence, a harmlessly deranged person or one lacking in common powers of understanding. [<https://www.merriam-webster.com/dictionary/fool>]. Joe is not a fool. In truth, he is a learned man, who majored in Economics and minored in Chemistry at the University of Virginia; who received his law degree from Georgetown University; who received a Master in Laws degree from Trinity College in Ireland, and; who has won over 250 criminal jury trials. Defendants’ false statement that Joe is a “fool” was the product of spite, ill-will, and an overt desire to discredit and destroy Joe’s reputation for being extremely intelligent.

13. During the “interview”, WTVR and Holmberg intentionally spliced together Joe’s comments regarding his son, Chase, and Holmberg’s statement that Joe was “lying”, to make it appear that Joe was “lying” about being Chase’s father. During the interview, Joe stated, “do you think for a moment if that child [Chase] is mine, I would run from that? Not – not going to happen.” Ex. A, p. 3:5-7. Immediately

following this clip is Holmberg stating, "He was lying to me then. He's lied to the investigators and everybody else in this case. That's why the state bar is coming after him, again." Ex. A, p. 3:8-10.

14. Joe is not a liar. He has never denied his parentage of his son, Chase – ever! In truth and in fact, he did not lie to Holmberg during the interview and did not lie to the police or anyone else about his son's parentage. Indeed, Morrissey never even spoke to the police. The intentional splicing of the clip from the "interview" and the accusation that Joe lied is malicious, spiteful, the product of ill-will, and is an overt attempt to discredit and destroy Joe's reputation for honesty and integrity. Additionally, at the time of the on air "interview", there was no evidence that the Virginia State Bar was "coming after Morrissey again." Again, Holmberg's statements were indisputably false and knowingly made with the intent to injure Joe in his profession and reputation.

15. In the on air "interview", Holmberg further stated that Joe "famously and stupidly" published a "plantation style 'Gone with the Wind' photo" of himself and his wife. Ex. A, p. 4:7-9. Joe is not a stupid person. He has a reputation as an extremely intelligent criminal defense lawyer with substantial experience in the courtroom. He is also not racist, and he did not stupidly publish a "plantation style" photo to anyone. In fact, Joe's wife is African-American. Again, Holmberg's statements evince a clear hatred of Joe with clear racial implications.

16. In the on air "interview", Holmberg further stated:

"Do we really want to elect this clown, this nonstop, one ring circus, this liar? Or do we want to elect somebody that's gonna lift us up to the heights that Richmond so richly deserves?"

Ex. A, p. 4:13-14. These false accusations impute to Joe dishonesty, a lack of intelligence, lack of character, lack of sincerity and resolution to perform the duties of Mayor and imply that Joe is unfit to be Mayor of the City of Richmond.

17. Joe lost his bid to become Mayor of the City of Richmond in 2016.

COUNT I – DEFAMATION *PER SE*

18. Joe restates paragraphs 1 through 17 of this Complaint and incorporates them herein by reference.

19. The Defendants made and published, both on air, online and via social media to millions of viewers, subscribers, advertisers, followers and other third-parties, numerous false factual statements, which are detailed verbatim above, of or concerning Joe.

20. Defendants' false statements constitute defamation *per se*. The statements accuse and impute to Joe the commission of crimes involving moral turpitude and for which Joe may be punished and imprisoned in a state or federal institution. The statements impute to Joe dishonesty, unethical behavior, and an unfitness to perform the duties of an office or employment for profit, or the want of integrity in the discharge of the duties of such office or employment. And, the Defendants' false statements, directly or by implication, prejudice Joe in his profession or trade.

21. Defendants' false statements caused Joe to suffer presumed and actual damages, including loss and injury to his business, insult, pain, embarrassment, humiliation, and mental suffering, injury to name and reputation, and out-of-pocket loss.

22. Defendants made the false statements with actual or constructive knowledge that they were false or with reckless disregard for whether they were false.

Defendants acted with actual malice and reckless disregard for the truth for the following reasons:

- a. Holmberg was out to get Joe. Holmberg harbored a grudge against Joe because Joe refused to represent Holmberg's son in a criminal matter.
- b. Defendants intentionally spliced video to make it appear as if Joe lied about the parentage of his son Chase, lied to Holmberg, lied to police investigators, and lied to others.
- c. Holmberg abandoned all journalistic ethics, integrity and principles. He made untrue statements about Joe with bothering to ask questions, research and/or confirm the facts.
- d. Defendants manufactured false statements out of whole cloth in support of a predetermined agenda to derail Joe's bid for Mayor.
- e. Defendants' statements exhibited a clear and extreme bias against Joe and his family.
- f. Defendants' false statements were motivated, in part, by a desire to paint Joe as a racist.
- g. Defendants' statements were knowingly false, with not a shred of supporting evidence. Defendants ignored available information about Joe and Joe's experience that would have demonstrated to Defendants, if they had cared, that their statements were false. Defendants consciously and intentionally ignored known and available evidence.
- h. Defendants chose to manufacture and publish false statements and use unnecessarily strong and violent language, disproportionate to the occasion.

i. Defendants reiterated, repeated and continued to publish the false defamatory statements to the broadest possible audience on air, online and on social media out of a desire to hurt Joe with reckless disregard for the consequences.

j. Defendants initiated the defamation, and went out of their way to publish statements about Joe in the worst possible light.

23. Defendants lacked any reasonable grounds for any belief in the truth of their statements and acted negligently in failing to determine the true facts.

24. As a direct result of Defendants' defamation, Joe suffered substantial damage and loss, including, but not limited to, presumed damages, actual damages, pain and suffering, emotional distress and trauma, insult, anguish, stress and anxiety, public ridicule, humiliation, embarrassment, indignity, damage and injury to his personal and professional reputations, costs, and other out-of-pocket expenses in the sum of \$1,000,000.00 or such greater amount to be determined by the Jury.

COUNT II – INSULTING WORDS

25. Joe restates paragraphs 1 through 24 of this Complaint and incorporates them herein by reference.

26. Defendants' insulting words, in the context and under the circumstances in which they were spoken and written, tend to violence and breach of the peace. Like any reasonable person, Joe was humiliated, disgusted, angered and provoked by the insulting words.

27. Defendants' defamatory words are fighting words, which are actionable under § 8.01-45 of the Virginia Code (1950), as amended.

28. As a direct result of Defendants' insulting words, Joe suffered substantial damage and loss, including, but not limited to, presumed damages, actual damages, pain and suffering, emotional distress and trauma, insult, anguish, stress and anxiety, public ridicule, humiliation, embarrassment, indignity, damage and injury to his personal and professional reputations, costs, and other out-of-pocket expenses in the sum of \$1,000,000.00 or such greater amount to be determined by the Jury.

Joe alleges the foregoing based upon personal knowledge, public statements of others, and records in his possession. Joe believes that substantial additional evidentiary support, which is in the exclusive possession of the Defendants and their agents and other third-parties, will exist for the allegations and claims set forth above after a reasonable opportunity for discovery.

Joe reserves the right to amend this Complaint upon discovery of additional instances of Defendants' defamation and wrongdoing.

CONCLUSION AND REQUEST FOR MONETARY DAMAGES AND RELIEF

WHEREFORE, Plaintiff, Joseph D. Morrissey, respectfully requests the Court to enter Judgment against the Defendants, jointly and severally, and as follows:

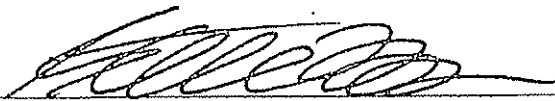
- A. Compensatory Damages in the sum of \$1,000,000.00, plus prejudgment interest on the principal sum awarded by the Jury from September 2, 2016 through the date of Judgment at the rate of six percent (6%) per year;
- B. Punitive damages in the amount of \$350,000.00 per Defendant;
- C. Post-Judgment interest at the maximum rate allowed by law;

- D. Costs incurred in connection with this action; and
- E. Such other relief as is just and proper.

PLAINTIFF DEMANDS TRIAL BY JURY

DATED: April 10, 2019

JOSEPH D. MORRISSEY

By: 

Steven S. Biss (VSB # 32972)
300 West Main Street, Suite 102
Charlottesville, Virginia 22903
Telephone: (804) 501-8272
Facsimile: (202) 318-4098
Email: stevenbiss@earthlink.net

Counsel for the Plaintiff

EXHIBIT “A”

COPY

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1 V I R G I N I A :

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5 TRANSCRIPT of the WTVR news broadcast with
6 Candace Burns, Bill Fitzgerald and Mark Holmberg in the
7 matter of Joe Morrissey.

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21 TRANSCRIBED BY COMILLER T. BOYD, COURT REPORTER

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1 CANDACE BURNS: He is the gravity defying
2 front runner in the Richmond Mayor's race. He's been
3 disbarred, sent to jail in an underage sex scandal and
4 charged with contempt nearly a dozen times.

5 BILL FITZGERALD: But Joe Morrissey could
6 still take office in City Hall. And for our Mark
7 Holmberg, electing Joe Morrissey would be a setback for a
8 city getting attention lately for all the right reasons.
9 Here's Mark's report and commentary.

10 MARK HOLMBERG: During the past couple of
11 years, Richmond has made national news and international
12 news as a cool place to live, to visit, to play, and
13 party. Now we're making national news because of this
14 fool?

15 Headline, man jailed in sex case leads
16 race for Richmond mayor. You may recall State Delegate
17 Joe Morrissey was busted for having a sexual relationship
18 with a 17 year old in his office three summers ago.

19 MR. MORRISSEY: Didn't know anything about
20 it and I wish I could help you.

21 MARK HOLMBERG: He denied it, she denied
22 it, even though prosecutors had tons of sexting and
23 texting evidence, including Morrissey bragging to a
24 friend that he had had sex with her on the conference
25 room table and the floor.

1 MR. MORRISSEY: OMG, I just _____ my boss.

2 MARK HOLMBERG: Back then Morrissey told
3 me and everyone else, the texts were fakes ginned up by a
4 jilted lesbian lover.

5 MR. MORRISSEY: Do you think for a moment
6 if that child is mine, I would run from that? Not -- not
7 going to happen.

8 MARK HOLMBERG: Oh yeah, really? He was
9 lying to me then. He's lied to the investigators and
10 everybody else in this case. That's why the state bar is
11 coming after him, again. And who is he? He's the only
12 state delegate I know that went to the General Assembly
13 on work release.

14 That's our boy Joe Morrissey, the
15 politician with the most mug shots since Marion Barry.
16 Jailed for fighting famed defense attorney David Baugh.
17 Jailed for beating this contractor. Cited for contempt
18 of court ten times for being unprofessional,
19 inappropriate, dishonest, disbarred. Banned from
20 practicing in federal court.

21 MR. MORRISSEY: I brought an AK-47 with
22 me.

23 MARK HOLMBERG: I remember the moment in
24 the General Assembly where you held up the AK-47. You
25 had your thumb in the trigger guard. I think, if I was

1 looking at Joe Morrissey, honestly, I would say you're a
2 guy who has lived his life a lot of times with his finger
3 on the trigger.

4 MR. MORRISSEY: It's an interesting
5 characterization and analogy and it may be true.

6 MARK HOLMBERG: Of course, he married the
7 girl after the baby was born. Joe famously and stupidly
8 providing this plantation style "Gone With the Wind"
9 photo.

10 More and more we're being known as this
11 really sweet southern city. Lots of energy, lots of
12 momentum, lots of investment.

13 Do we really want to elect this clown,
14 this nonstop, one ring circus, this liar? Or do we want
15 to elect somebody that's gonna lift us up to the heights
16 that Richmond so richly deserves?

17 That's my take. Love to hear yours on
18 WTVR.com.

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1 COMMONWEALTH OF VIRGINIA,

2 COUNTY OF HANOVER, to-wit:

3 I, Comiller T. Boyd, a Notary Public for
4 the State of Virginia at Large, do hereby certify that
5 the recording was transcribed by me, to the best of my
6 ability.

7 Given under my hand this 10th day of
8 August 2017.

9
10 Original signed

11 Comiller T. Boyd, Notary Public
12 for the State of Virginia at Large
13 Notary Registration Number 223816
14

15 My Commission Expires:

16 August 31, 2020
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